

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	12-CR-134(BMC)
	:	
	:	
-against-	:	United States Courthouse
	:	Brooklyn, New York
	:	
	:	Thursday, April 16, 2015
ADNAN HAUSA,	:	
	:	
Defendant.	:	

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TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT COURT JUDGE

A P P E A R A N C E S:

For the Government: LORETTA E. LYNCH, ESQ.
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: SHREVE ARIAIL, ESQ.
Assistant United States Attorney

For the Defendant: SUSAN GAIL KELLMAN, ESQ.
25 Eighth Avenue
Brooklyn, New York 11217
BY: SUSAN GAIL KELLMAN, ESQ., ESQ.

- AND -

DAVID STERN, ESQ.

Court Reporter: Richard W. Barry, RPR
Official Court Reporter
E-mail: rwbarrycourtreporter@gmail.com
Proceedings recorded by computerized stenography.
Transcript produced by Computer-aided Transcription.

1 COURTROOM DEPUTY: United States versus Adrian
2 Hausa, docket 12-CR-134. Counsel, please state your
3 appearances starting with the Government.

4 MR. ARIAIL: Good morning, Your Honor, Shreve Ariail
5 for the United States.

6 THE COURT: Good morning.

7 MR. STERN: David Stern, Susan Kellman for Mr.
8 Hausa.

9 THE COURT: Good morning. Good morning Mr. Hausa.

10 INTERPRETER: I'm not well, I have a problem.

11 THE COURT: Let's have the interpreter sworn, first.
12 (Courtroom Deputy swore the Interpreter.)

13 INTERPRETER: Mohammed Shuaib.

14 COURTROOM DEPUTY: You maybe seated.

15 THE COURT: All right. Go ahead.

16 MR. ARIAIL: Your Honor, in terms of the status, at
17 the last status conference, we were talking about the way
18 forward.

19 INTERPRETER: I don't want to hear any translations.

20 THE COURT: Fine, you don't have to listen.

21 MR. ARIAIL: There are a couple of things pending
22 now that we should address, the Government has a pending
23 motion that was filed sometime ago.

24 THE COURT: I have to stop you, Mr. Hausa is
25 grumbling for the purposes of disrupting these proceedings.

1 So, start again. I will try to see if I can hear
2 you over it.

3 MR. STERN: Judge, would it be possible for us to
4 stand here, I am having trouble hearing myself. If we can
5 stand right there.

6 THE COURT: You can stand here, Mr. Hausa has to
7 stay there.

8 MR. STERN: I didn't mean Mr. Hausa. I meant
9 ourselves. Thank you.

10 THE COURT: All right. Go ahead.

11 MR. ARIAIL: In terms of obviously the classified
12 issues are the significant aspect of the case we have to deal
13 with. There is a pending motion, ECF 43. I apologize for not
14 bringing to the Court's attention, a motion for the entry of a
15 classified protective order in the case.

16 Defense counsel when we last discussed it, had
17 indicated that they weren't prepared to consent to the entry
18 of it until they resolved the pro se issue.

19 So, I briefly talked with Mr. Stern beforehand. He
20 may or may not have some comments on the protective order.
21 But that is one issue that needs to be dealt with at least up
22 front.

23 MR. STERN: I take it the pro se issue is resolved.

24 THE COURT: That is resolved. The defendant refused
25 to cooperate in allowing me to ask him the questions that

1 would have enabled me to determine whether he could proceed
2 pro se. And since he will not let me ask the questions, he
3 has to proceed with counsel.

4 MR. STERN: Okay.

5 MS. KELLMAN: Excuse me. I was just going to say,
6 Judge, to complete the record on that. When we were here last
7 time, I tried to give Mr. Hausa copies of the translations of
8 the questions that the Court might put to him. We had them
9 translated into Arabic and into Hausa. He refused to take
10 them from me. He refused to take them from the Marshals.

11 Then when I got back to the office that day, I put
12 them in the mail and mailed him with an explanation the
13 English questions, the Arabic questions. And the Hausa
14 questions, hoping-- and the translations rather in those
15 languages, hoping perhaps in a moment of reflection, he might
16 read them on his own. If he has, he has not communicated that
17 to us.

18 THE COURT: So he is with counsel.

19 MR. STERN: I have been on trial, I am still waiting
20 for a verdict in a case. As soon as I am done, I will look at
21 the protective order and see if we have any objections to it.
22 If we do, I will talk to the Government about it and see if we
23 can resolve it.

24 THE COURT: How long do you think?

25 MR. STERN: I think it will take me a day to read

1 it. Once I'm done, I will look at it. The jury is coming
2 back Monday and Tuesday.

3 I think they are close, they have been deliberating
4 for a week. I think they are close to finishing. Then I will
5 begin to focus on that.

6 THE COURT: Okay.

7 MR. STERN: So, certainly next week sometime, I will
8 look at it.

9 THE COURT: That is fine.

10 So, I will either sustain an objection if there are
11 any or overrule objections and sign something next week.

12 Then what happens?

13 MR. ARIAIL: Then what happens Your Honor, is there
14 is sort of a couple of categories of classified information
15 that we will be addressing. So classified information and I
16 have not consulted with a-- I assume Mr. Stern and Ms. Kellman
17 are clear and we should get them--

18 THE COURT: All right. I'm afraid that Mr. Hausa is
19 again talking very loudly in his native language and making it
20 impossible for me to hear the attorneys. It is not a shout,
21 but a loud noise.

22 Mr. Hausa, I'm going to caution you, that if you
23 don't lower your voice, I will have to have you removed from
24 the courtroom. Are you ready to lower your voice?

25 INTERPRETER: You are not a Judge. If you want to

1 call me --

2 THE COURT: All right. The defendant is not
3 lowering his voice, I can't hear anything. He is talking even
4 too fast for me to have the Interpreter interpret anything. I
5 will therefore direct he be removed from the courtroom.

6 We will set him up to watch video in the adjoining
7 courtroom and conclude this conference without him.

8 (Defendant left the courtroom.)

9 THE COURT: You were saying.

10 MR. ARIAL: Certainly, Your Honor.

11 So, I just need to confirm obviously once the
12 protective order is filed, that Mr. Stern and Ms. Kellman
13 are-- have the appropriate classifications for the type of
14 discovery that we are going to turn over. The
15 CISCO(phonetic), who handles classified filings, I just need
16 to contact him and make sure that they are. I have no reason
17 to think that they aren't.

18 But, then obviously to the extent that Your Honor
19 has a Clerk or-- needs to be-- to make sure they have the
20 right classification as well. We just need to confirm that.

21 As I said, some classified discovery will probably--
22 we'll be likely be able to turn over prior to any briefing.

23 However, I do anticipate filing a fairly complex motion
24 pursuant to the Classified Procedures Act, Section 4, which
25 would seek summary substitutions or other alternative

1 disclosure of classified material.

2 THE COURT: Okay.

3 MR. ARIAIL: That is a very complicated process and
4 it will take me a while to get that done.

5 I would hope to be able to get something-- part of
6 the problem Your Honor, is that Ms. Kellman and Mr. Stern and
7 I, are all about to start a very long trial, and so I'm hoping
8 to get that done later in the summer if possible, and for Your
9 Honor's consideration.

10 THE COURT: Look, I appreciate that pressure, but
11 this is a defendant who is in custody. I will ask you to do
12 everything you can to pick it up. All right.

13 MR. ARIAIL: Certainly.

14 THE COURT: As I said to you before, it is the
15 Government's issue that it wants to bring this person into a
16 civil court, I am not second guessing that at all. But then,
17 you can't say, it is so complicated that we can't get to it
18 for six months. I mean, it-- you have to find a better way to
19 do it, if you are going to do it this way.

20 MR. ARIAIL: Certainly, Your Honor. Part of the
21 problem is, is that we all have not been focused on the case
22 given that the case has been in limbo for some time.

23 So, we now have to refocus and reallocate sources
24 and all that-- resources and that sort of thing.

25 THE COURT: Well, there is another prospective to

1 that too, I don't think we are in a place where we thought we
2 wouldn't be and we are surprised to be here suddenly. We are
3 where I thought we all knew it was likely we would be. So we
4 could have started the ball rolling earlier. But, I am
5 directing the Government to start them rolling now.

6 MR. ARIAIL: Certainly, Your Honor.

7 THE COURT: Let's do 60 days.

8 MR. ARIAIL: Certainly.

9 THE COURT: Is that worthwhile, is there going to be
10 anything to say in sixty days?

11 MR. ARIAIL: We will be able to say-- I hope, Your
12 Honor, that we have a protective order entered and some
13 disclosures made. We will not be in a position to be able to
14 file Section 4 in sixty days.

15 The issue, Your Honor, is in this-- the big issue
16 for us, is in the Second Circuit there is a suggestion that we
17 need to go before the State Secrets Committee before we file a
18 Section 4. That is a very convoluted bureaucratic process and
19 causes a lot of our delays.

20 That is-- I will leave it at that, Your Honor.

21 THE COURT: All right. Well, let's do sixty days
22 anyway, so at least I have the ability to continue to urge the
23 Government to act as expeditiously as possible. I'm not
24 saying that it is not. But I want to be able to emphasize
25 that point.

1 So what do we have in sixty days.

2 COURTROOM DEPUTY: June 18th, 11 a.m..

3 MR. STERN: That is fine.

4 MR. ARIAIL: Fine for the Government.

5 THE COURT: All right. I will exclude time until

6 then based on having --

7 MS. KELLMAN: Sorry, Judge, I'm in the Court of
8 Appeals.

9 COURTROOM DEPUTY: June 22nd, a Monday.

10 MR. ARIAIL: That is fine.

11 MS. KELLMAN: That is fine.

12 THE COURT: Mr. Stern?

13 MR. STERN: That is fine.

14 THE COURT: I will exclude time until that day,
15 based upon having previously designated the case as complex.
16 That is June 22nd, 11 a.m..

17 MR. STERN: Just to look into the future a little.

18 THE COURT: Yes.

19 MR. STERN: The way the process is likely to go, and
20 again, I don't know what the material is. So, is that there
21 will be substitutions that you have authorized, we will look
22 at them and potentially say, we want more material under six,
23 whatever is happening. So, I say that not--

24 THE COURT: You are just warning me. It will not be
25 very fast.

1 MR. STERN: That is very likely what will happen.

2 MR. ARIAIL: As Mr. Stern pointed out, then they
3 will have to articulate specifically what they want and then
4 we will be in a position to oppose that and then to the
5 extent.

6 MR. STERN: Or not.

7 MR. ARIAIL: Or not. And we may end up having to
8 have a hearing on that. Proceed from there.

9 THE COURT: All right.

10 MS. KELLMAN: No doubt, they will fold.

11 MR. STERN: I say that by way of saying, we are just
12 starting down a long road.

13 THE COURT: I understand the process and I will try
14 to factor that into my normal desire to move more quickly than
15 I can tell this case will move no matter what.

16 All right.

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19 I CERTIFY that the foregoing
20 is a correct transcript from
the record of proceedings
in the above entitled matter.

21

22 s/Richard W. Barry

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Richard W. Barry, RPR

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